

BY COUNCIL MEMBER JIM MADDOX

**AUTHORIZING THE MAYOR TO ENTER INTO
A CONSERVATION EASEMENT BETWEEN
THE CITY OF ATLANTA AND COVENTRY
STATION PARTNERS, LLC FOR THE
PROTECTION OF TREES; CREATION OF
OPEN SPACE; AND OTHER PURPOSES**

WHEREAS, Coventry Station Partners, LLC (hereinafter the “Developer”) has undertaken to develop approximately 104 acres of land in the area of Greenbriar Mall and has been eager to construct a quality mixed-use development, which will be a community asset on its property; and

WHEREAS, the Developer is the fee-simple owner of these three separate parcels of real estate in the area more specifically described in Exhibit “A,” which is attached hereto and made a part this reference (herein collectively called the “Properties”); and such Properties are also depicted as the shaded areas on the attached Exhibit “B;” and

WHEREAS, the Developer is willing to grant and dedicate a perpetual conservation easement over these properties, thereby restricting and limiting the use of the properties, on the terms and conditions and for the purposes set forth within the conservation easement; and

WHEREAS, Grantor and Grantee recognize the value of establishing this conservation easement in order to protect natural and open-space values to assure open space use, and protect their natural resource and maintain and enhance adjacent air and water quality and protect trees; and

WHEREAS, the Developer will provide funds sufficient to cover the City’s costs for due diligence and closing transactions.

WHEREAS, the City and the Developer agree that it will be in the best interest of the City to accept this conservation easement.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

SECTION 1: The Mayor is authorized to execute a conservation easement by and between the City of Atlanta and Coventry Station Partners, LLC or its successors in

interest as Grantor. Said conservation easement shall be substantially in the form as attached hereto and incorporated herein by this reference as Exhibit "C."

SECTION 2: The City Attorney is authorized to prepare and review all necessary contractual arrangements and the Mayor is authorized to execute all necessary agreements after acceptance of due diligence research and approval by the City Attorney as to form.

SECTION 3: Said conservation easement shall not be binding on the City and the City shall not assume any obligations hereunder until executed by the Mayor.

SECTION 4: The Mayor, as designee, is authorized to carry out any and all rights and duties of enforcement under the conservation easement, including but not limited to the ability to determine ???, pursuant to applicable provisions of the agreement.

SECTION 5: All resolutions and parts of resolutions in conflict herewith this Resolution are hereby repealed to the extent of any such conflict.

After recording return to:
Sangeetha Rao
68 Mitchell Street
Suite 4100
Atlanta, GA 30335

STATE OF GEORGIA

COUNTY OF FULTON

DEED OF CONSERVATION EASEMENT

THIS INDENTURE is made and entered into this ____ day of _____, _____, by and between **COVENTRY STATION PARTNERS, LLC**, a _____ ("Grantor"), having an address at _____, and the **CITY OF ATLANTA**, Georgia, a municipal corporation ("Grantee").

W I T N E S S E T H :

WHEREAS, Grantor is the owner in fee simple of that certain real property (the "Property") located in Fulton County, Georgia, and more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof; and

WHEREAS, Grantor has designated a ____ -acre parcel, more particularly described in Exhibit "B" attached hereto and by this reference made a part hereof (the "Easement Area"), located on the Property, to be subject to a conservation easement to preserve and protect the present condition of the Easement Area; and

WHEREAS, the Grantee is authorized to accept conservation easements created pursuant to the provisions of the Georgia Uniform Conservation Easement Act, O.C.G.A. §44-10-1 et seq., as amended from time to time, or any successor provision of law, the purpose of which is to preserve land in its natural scenic landscape or in a forest use; and

WHEREAS, Conservation easements that result in the preservation of wooded lands, or newly created wooded parkland, that are perpetual in duration shall receive a credit of \$20,000.00 per acre, pro rated against recompense fees; and

WHEREAS, areas that are subject to the 75 foot stream buffer mandated by Atlanta City Ordinance §158-32 may not receive tree recompense credits; and

WHEREAS, the Easement Area in its present state has not been subjected to development or other exploitation and possesses significant tree cover and open-space features and ecological issues, such as, air quality and water quality values (collectively, the "Open Space Values"); and

WHEREAS, the preservation of the Easement Area in its present state will clearly enhance the Open Space Values; and

WHEREAS, such easements may be perpetual in duration and may contain such other terms and provisions as the Mayor shall deem appropriate; and

WHEREAS, Open Space Values are documented in an inventory of relevant features of the Easement Area, dated _____, _____, more particularly described in Exhibit "C" attached hereto and by this reference made a part hereof (collectively, the "Baseline Data"), which consists of _____ survey maps, reports, maps, photographs, and other documentation which Grantor and Grantee agree will provide, collectively, an accurate representation of the condition of the Easement Area as of the date hereof, and which is intended to serve as an objective informational baseline for monitoring compliance with the terms of the Indenture; and

WHEREAS, the Open Space Values are of great importance to Grantor, Grantee, the people of the State of Georgia and the general public, and are worthy of preservation and conservation; and

WHEREAS, Grantor also wishes to preserve the Open Space Values by providing for the continuation of only those uses on the Easement Area that have proven historically compatible with the Open Space Values; and

WHEREAS, Grantee is a "qualified organization" within the meaning of Section 170(h) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, Grantee is a qualified "holder" within the meaning of O.C.G.A. § 44-10-2(2); and

WHEREAS, Grantor, as owner of the Easement Area, wishes to convey to Grantee a nonpossessory interest in the Easement Area to preserve and protect the Open Space Values of the Easement Area in perpetuity, and Grantee wishes to accept such conveyance from Grantor, in order to honor the intentions of Grantor stated herein and to preserve and protect in perpetuity the Open Space Values of the Easement Area for the benefit of this generation and generations to come, but only upon the terms and conditions hereinafter set forth; and

WHEREAS, by the Indenture, Grantor and Grantee mutually intend that the Easement Area be preserved in perpetuity in its existing state, thereby furthering the conservation and protection of a "relatively natural habitat of fish, wildlife, or plants or similar ecosystem" (as used in Section 170(h) of the Code), and the preservation of open space for the scenic enjoyment of the general public benefit; and

NOW, THEREFORE, for and in consideration of TEN AND NO/100 DOLLARS (\$10.00) in hand paid at or before the sealing of these presents, the mutual intentions expressed in the foregoing recitals, the mutual covenants, terms, conditions and restrictions herein contained and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, and pursuant to Official Code of Georgia Annotated §§ 44-10-1 et seq., which expressly authorizes the conveyance herein contained, Grantor has freely and voluntarily granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does freely and voluntarily grant, bargain sell, alien, convey and confirm, unto Grantee and its successors and assigns, a perpetual conservation easement. Grantee, by its execution hereof, accepts the foregoing grant of the Conservation Easement, and the recordation of this Indenture shall constitute a "recordation of the acceptance" by Grantee within the meaning of O.C.G.A. § 44-10-3(b). Upon the recordation hereof, Grantee shall be entitled to enforce the Conservation Easement pursuant to O.C.G.A. § 44-10-4.

1. General Purposes. It is the general purpose of the Conservation Easement to assure that the Easement Area will be retained forever in its present natural, scenic, open and undisturbed condition and to prevent any use of the Easement Area that will significantly impair or interfere with the Open Space Values of the Easement Area, as generally defined in the Baseline Data.

2. Rights of Grantee. To accomplish the purpose of the Conservation Easement, the following rights are conveyed to Grantee by this Indenture:

A. To preserve and protect the Open Space Values of the Easement Area.

B. To enter upon the Easement Area at reasonable times and upon reasonable prior notice in order to monitor Grantor's compliance with and otherwise enforce the terms of the Conservation Easement, provided that such entry shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Easement Area.

C. To prevent any activity on, or use of, the Easement Area that is materially inconsistent with the purposes of the Conservation Easement, and to require the restoration of such areas or features of the Easement Area as may be damaged by any such inconsistent activity or use.

3. Prohibited Uses. Any activity on, or use of, the Easement Area materially inconsistent with the purpose of the Conservation Easement is prohibited. The Easement Area shall be maintained in its natural and wild state and restricted from any development with buildings or otherwise, or any use other than as natural fields and forest lands and as a sanctuary for wildlife and wild plants. It is mutually agreed and understood, however, that the Conservation Easement permits Grantor and its successors-in-interest to use the Easement Area

for all purposes, present and future, not inconsistent with the Conservation Easement. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

- A. The change, disturbance, alteration or impairment of the natural, scenic, agricultural and aesthetic features of the Easement Area, except as expressly provided herein.
- B. Any residential, commercial or industrial use of, or activity on, the Easement Area.
- C. The construction or maintenance on the Easement Area of any buildings, structures or other improvements, other than requisite fencing and as otherwise expressly permitted herein.
- D. The exploration for, or the extraction of, oil, gas or other minerals, hydrocarbons, soils or other materials on or below the surface of the Easement Area.
- E. The dumping or other disposal of trash, garbage or other refuse of any nature whatsoever on the Easement Area.
- F. Any use or activity, such as excavation, landfilling, dredging or mining, that causes or presents a risk of causing soil erosion.
- G. The cutting of merchantable timber, except as necessary to maximize wildlife production, to control or prevent imminent hazard, disease or fire, or except the appropriate thinning of such timber as is consistent with sound forestry management practices, based upon a forestry management plan prepared by a certified forester and submitted to Grantee for approval at least thirty (30) days prior to the initiation of any cutting or thinning, which approval shall not be unreasonably withheld.
- H. The construction, maintenance, or erection of any sign or billboards on the Easement Area, except for the posting of no-hunting and no-trespassing signs.
- I. The construction or extension of utility systems.

4. Reserved Rights. Grantor reserves to itself and its personal representatives, heirs, executors, administrators, successors and assigns the rights of entry and use and all other rights accruing from its and their ownership of the Easement Area not inconsistent with the purposes of the Conservation Easement. Without limiting the generality of the foregoing, the following rights are expressly reserved:

- A. The right to take action necessary to prevent erosion on the Easement Area or to protect public health or safety.
- B. The right to lease or to give, sell, assign or otherwise transfer the Easement Area or any portion thereof by operation of law or by deed, in each case subject and subordinate to this Indenture.

C. The right to engage in limited game and timber maintenance and management, including burning, mowing and chopping of the understory vegetation and appropriate timber thinning consistent with sound game and wildlife management and forestry management practices, based upon the forestry management plan referred to in Paragraph 3.G. above.

D. Except as expressly provided herein, Grantor retains exclusive access to and use of the Easement Area.

E. Except as limited in this Indenture, Grantor reserves all rights as fee owner of the Easement Area, including, without limitation, the right to use the Easement Area for all purposes not inconsistent herewith; provided, however, that Grantor shall notify Grantee in writing, and Grantee shall have the right of consent, in each case as more particularly provided in Paragraph 6 below, prior to the exercise of any reserved right hereunder if the exercise thereof may reasonably be expected to have an adverse impact on the conservation purposes of this Indenture; and provided further, that Grantor hereby acknowledges that, pursuant to O.C.G.A. § 44-10-4(b), Grantee is a necessary party in any proceeding of or before any governmental agency which may result in a license, permit or order for any demolition, alteration or construction on the Easement Area.

[NOTE: Other issues to be considered are access to Easement Area; new roads/road widenings; new utilities.]

5. Grantee's Remedies. If Grantee determines that Grantor is in violation of the terms of this Indenture or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation, and, when the violation involves injury to the Easement Area resulting from any use or activity inconsistent with the purpose of this Indenture, to restore the portion of the Easement Area injured. If Grantor fails to cure such violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30)-day period, fail to begin curing such violation within the thirty (30)-day period, or fail to continue diligently such cure thereafter until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Indenture, including, without limitation, to enjoin the violation, by temporary or permanent injunction, and to require the restoration of the Easement Area to the condition that existed prior to any such injury. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Open Space Values of the Easement Area, Grantee may pursue its remedies under this Paragraph 5 upon written notice to Grantor, but without waiting for the period provided for cure to expire. Grantee's rights under this Paragraph 5 apply equally in the event of either actual or threatened violations of the terms of this Indenture, and Grantor agrees that Grantee shall be entitled to the injunctive relief described above in Paragraph 5, both prohibitive and mandatory, in addition to the other remedies provided for herein, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this Paragraph 5 shall be cumulative and shall be in addition to all other remedies now or hereafter existing at law or in equity, subject always, however, to any obligation upon Grantee to give notice or an opportunity to cure, or both, pursuant hereto.

5.1 Grantee's Discretion. Enforcement of the terms of this Indenture shall be at the discretion of Grantee, and any forbearance by Grantee in the exercise of its rights under this Indenture in the event of any breach of any term hereof by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Indenture or of any of Grantee's rights hereunder. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

5.2 Waiver of Certain Defenses. Grantor hereby waives any defense of laches, estoppel or prescription.

5.3 Acts Beyond Grantor's Control. Nothing contained in this Indenture shall be construed to entitle Grantee to bring any action against Grantor or to suggest that Grantor would have any liability for any injury to or change in the Easement Area resulting from causes beyond Grantor's control, including, without limitation, fire flood, storm, earth movement, other acts of God, natural or man-made disasters, unauthorized acts of third parties or other damage beyond Grantor's control, or from any prudent action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Easement Area resulting from such causes.

6. Notice of Intention to Undertake Certain Permitted Actions. The purpose of requiring Grantor to notify Grantee prior to undertaking any activity of the nature contemplated by the proviso contained in Paragraph 4.E. above is to afford Grantee an opportunity to ensure that the activities in question are designed and carried out in the manner consistent with the purposes of this Indenture. Whenever such notice is required, Grantor shall notify Grantee, in writing, not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purposes of this Indenture.

6.1 Grantee's Approval. Grantee shall grant or withhold its approval, in writing, within sixty (60) days of receipt of Grantor's written request therefor. Grantee's approval may be withheld only upon reasonable determination by Grantee that the action, as proposed, would be inconsistent with the purposes of this Indenture.

6.2 Arbitration. If a dispute arises between the parties concerning the consistency of any proposed use or activity with the purposes of this Indenture, and Grantor agrees not to proceed with the use or the activity pending resolution of the dispute, either party may refer the dispute to arbitration by request made, in writing, upon the other. Within thirty (30) days of the receipt of such a request by the receiving party, the parties shall endeavor to select a single arbitrator to hear the matter.

If the parties are unable to agree on the selection of a single arbitrator within such thirty-(30) day period for any reason whatsoever, then each party shall, within five (5) days thereafter, name one (1) arbitrator, and the two (2) arbitrators thus selected shall select a third arbitrator within ten (10) days after the date of the appointment of the second arbitrator; provided, however, that if either party fails to select an arbitrator, or if the two (2) arbitrators selected by

the parties fail to select the third arbitrator within ten (10) days after the appointment of the second arbitrator, then, in each such instance, either party may apply to the Superior Court in and for Fulton County, Georgia for the appointment of the second or third arbitrator, or both, as the case may be.

7. Costs and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership of the Easement Area, including, without limitation, the maintenance of adequate comprehensive general liability insurance coverage. Grantor shall keep the Easement Area free of any liens arising out of any work performed for, materials furnished to or obligations incurred by Grantor.

7.1 Hold Harmless. Grantor agrees to indemnify and hold harmless Grantee and its elected officials, officers, agents, employees, authorized representatives, successors, and assigns officers, directors, employees and agents against all claims for damage or destruction of Easement Area or death or injury to persons arising from the negligent acts of Grantor and its employees and agents and shall insofar as is possible, after a good-faith effort by Grantor, name Grantee as an additional insured on Grantor's liability policy. any intentional bad act or omission or negligent act or omission, whether active or passive, of Trees Atlanta, its officers, employees, agents, subcontractors, subconsultants, volunteers, or of anyone acting under its direction or control or on its behalf in connection with or incidental to this Agreement.

7.2 Taxes. Grantor shall pay, before delinquency, all taxes, assessments, fees and charges of whatever description levied on or assessed against the Easement Area by any competent authority (collectively, "taxes"), including any taxes imposed upon, or incurred as a result of, this Indenture, and shall furnish Grantee with satisfactory evidence of payment upon request; provided, however, that to the extent that the granting of the Conservation Easement shall entitle Grantor to a revaluation or other tax relief as contemplated by O.C.G.A. § 44-10-8, Grantee agrees to cooperate fully and promptly with Grantor in securing the benefits of the same; provided, further, that Grantor shall have no liability for the payment of taxes, if any, levied upon or assessed against the Conservation Easement.

8. Extinguishment. If circumstances arise in the future such as to render the purpose of this Indenture impossible to accomplish, the Conservation Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction pursuant to O.C.G.A. § 44-10-4(c). The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange or involuntary conversion of all or any portion of the Easement Area (including, without limitation, that pursuant to paragraph 8.2 below), contemporaneously with or subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by applicable law at the time, in accordance with Paragraph 8.1 below. Grantee shall use all such proceeds in a manner consistent with the conservation purposes of this Indenture.

[8.1 Proceeds. The Conservation Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of this Paragraph 8, the parties stipulate to have a current fair market value equal to the value used to calculate the deduction for Federal income tax purposes allowable by reason of the grant of the Conservation Easement by Grantor,

pursuant to Section 170(h) of the Code, of \$ _____[, according to [insert reference to appraisal or other source of valuation]].

The remaining current fair market value of the Easement Area, separate from but after being encumbered by the Conservation Easement, is \$ _____[,according to [insert reference to appraisal or other source of valuation]]. For the purpose of this Paragraph 8.1, the ratio of the value of the Conservation Easement to the value of the Easement Area retained by Grantor shall remain constant.]

8.2 Condemnation. If the Conservation Easement is taken, in whole or in part, by exercise of the power of eminent domain (it being understood that any such exercise with respect to the Conservation Easement shall be with the express written consent of both Grantor and Grantee, in derogation of O.C.G.A. § 44-10-3(a)), Grantee shall be entitled to compensation in accordance with applicable law and this Paragraph 8, and Grantor and Grantee agree to join in all necessary and appropriate actions to recover the full value of such condemnation, including all incidental damages.

9. Assignment. The Conservation Easement is transferable, but Grantee may assign its rights and obligations under this Indenture only to an organization that is a "qualified organization" at the time of transfer under Section 170(h) of the Code or a Federal, state or local governmental agency or other entity, and the applicable regulations promulgated thereunder, and also authorized to acquire, hold and enforce conservation easements under O.C.G.A. §§ 44-10-2, 44-10-3 and 44-10-4. As a condition precedent to any such transfer, Grantee and its successors and assigns shall require a specific written assumption of and agreement to be bound by this Indenture from each transferee hereunder, which assumption shall state that the purposes that the Conservation Easement is intended to advance shall continue to be carried out by such transferee. A copy of each such assumption shall be sent to Grantor or the heirs, executors, administrators, personal representatives, successors or assigns of Grantor.

10. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other hereunder shall be in writing and either served personally or sent by nationally-recognized, overnight courier service or U.S. registered or certified mail, postage prepaid, return receipt requested, addressed as follows (or to such other address(es) as may be specified by any such party to the other hereunder by written notice delivered in accordance with this Paragraph 10):

To Grantee:
Attention:

With a copy to:

Attention:

To Grantor:

Attention:

With a copy to:

Attention:

Any notice or other communication mailed as hereinabove provided shall be deemed effectively given or received on the date of delivery, if personally served or if delivered by nationally recognized, overnight courier service, or on the date indicated on the return receipt, if sent by U.S. registered or certified mail as described above. If any notice mailed is properly addressed but returned for any reason, such notice shall be deemed to be effective notice given on the date of mailing.

11. General Provisions.

A. Controlling Law. The interpretation and performance of the Indenture shall be governed by and construed in accordance with the laws of the State of Georgia.

B. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Indenture shall be liberally construed in favor of Grantee to effectuate the purposes hereof and the policy and purposes of O.C.G.A. §§ 44-10-1 et seq. If any provision of this Indenture is found to be ambiguous, an interpretation consistent with the purposes of this Indenture that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability. If any provision of this Indenture, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Indenture or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

D. Entire Agreement. This Indenture sets forth the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior discussions, negotiations, understandings, and agreements relating thereto, all of which are merged herein.

E. No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

F. Successors and Assigns; Covenants, Etc. Run With Land. The covenants, terms, conditions and restrictions of this Indenture shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, executors, administrators, personal representatives, successors and assigns, and shall continue as an easement and servitude running with the Easement Area in perpetuity and enforceable against Grantor and all present and future owners, tenants and other holders of any interest in the Easement Area. The benefits herein conferred upon Grantee shall be in gross and assignable by Grantee, but only in accordance with Paragraph 9 above. The terms "Grantor" and "Grantee", when used herein, shall be deemed to refer to Grantor or Grantee, as the case may be, and its personal representatives, heirs, executors, administrators, successors and assigns.

G. Termination of Rights and Obligations. Each party's rights and obligations under this Indenture shall terminate upon the transfer of such party's interest in this Indenture

pursuant to Paragraph 9 above or the Easement Area, as the case may be, except that liability for the acts or omissions occurring prior to such transfer shall expressly survive such transfer.

H. Captions. The captions in this Indenture have been inserted solely for convenience of reference, are not a part of this Indenture and shall have no effect upon construction or interpretation.

I. Grantor's Successors-In-Title. Grantor agrees that any conveyance of the Easement Area by Grantor will be made expressly subject to the terms, conditions, restrictions and purposes of this Indenture and the same shall be inserted by Grantor in, or incorporated by reference in, any subsequent deed or other legal instrument by which Grantor divests itself of fee simple or any other interest in the Easement Area or any portion thereof, and Grantor hereby agrees to notify Grantee or its successors or assigns of any such conveyance.

J. Grantor's Representations and Warranties. Grantor hereby represents and warrants that it is seized of the Easement Area in fee simple and has good right to grant and convey the Conservation Easement, that the Easement Area is free and clear of any and all encumbrances, and that Grantee and its successors and assigns shall have the use of and enjoy all of the benefits derived from and arising out of the Conservation Easement.

K. Recordation. Grantor and Grantee agree that this Indenture shall be promptly recorded in the Office of the Clerk of Superior Court of Fulton County, Georgia at Grantor's sole cost and expense.

12. Baseline Data. Grantee acknowledges by its acceptance of the Conservation Easement, that Grantor's historic and present uses of the Easement Area are compatible with the purposes of the Conservation Easement. In order to establish a present condition of the Open Space Values so as to be able to properly monitor future uses of the Easement Area and assure compliance with the terms hereof, Grantee has prepared or caused to be prepared the Baseline Data. The Baseline Data shall be used to assist in establishing the condition of the Easement Area as of the date of this Indenture. Grantor and Grantee acknowledge and agree that, in the event that a controversy arises with respect to the nature and extent of Grantor's historical and present use or the physical condition of the Easement Area subject to the Conservation Easement as of the date hereof, the parties may look beyond the Baseline Data, if necessary, to other relevant or material documents, surveys, reports and other evidence showing conditions at the time of execution of this Indenture to assist in the resolution of the controversy.

TO HAVE AND TO HOLD the Conservation Easement unto Grantee and its successors and assigns, together with all and singular the rights, members and appurtenances thereof to the same being, belonging or in anywise appertaining, to only proper use, benefit and behoof of Grantee forever. The covenants agreed to and the terms, conditions, restrictions and purposes imposed as aforesaid shall not only be binding upon Grantor but also its personal representatives, heirs, executors, administrators, successors and assigns, and shall continue as an easement and servitude running in perpetuity with the Easement Area.

IN WITNESS WHEREOF, each of Grantor and Grantee has caused its hand and seal to be hereunto affixed by its duly authorized signatory as of the day and year first above written.

[SIGNATURES ON FOLLOWING PAGE]

Signed, sealed and delivered in the presence
of:

GRANTOR:

Unofficial Witness

By:

Name: _____

Its: _____

Notary Public

[NOTARIAL SEAL]

Attest:

Name: _____

Its: _____

My Commission Expires:

[CORPORATE SEAL]

Signed, sealed and delivered in the presence
of:

GRANTEE:

Unofficial Witness

By:

Name: _____

Its: _____

Notary Public

[NOTARIAL SEAL]

Attest:

Name: _____

Its: _____

My Commission Expires:

[CORPORATE SEAL]

Exhibit "A"
Legal Description

Exhibit "B"

Aerial Photographs or Map of Easement Area

Exhibit "C"

Baseline Data

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